

(4)
No. 89-1008

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES
October Term 1989

DWIGHT H. OWEN

Petitioner

vs

HELEN OWEN

Respondent

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

BRIEF FOR THE PETITIONER

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QUESTIONS PRESENTED

1. Whether the Court of Appeals correctly interpreted and applied 11 USC 522(f)(1) in denying lien avoidance, with respect to otherwise exempt property, based upon Florida law which provides that certain judgment or judicial liens create exceptions to the exemptions.
2. Whether a state law provision that creates exceptions to state homestead exemption for certain judgment liens based upon the time that the lien attaches is a permissible exemption provision for a state which has "opted out" of the federal exemptions when such "exception" is a judicial lien within the application of 11 USC 522(f)(1).

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Dwight H. Owen is an individual petitioner

Helen Owen is an individual respondent

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of oil and gas wells even though
Florida law denies an exception
to the Transferred exception for an
activity unpermitted by state law
and these wells are not
unpermitted by state law

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The order of the United States Bankruptcy Court entered on 8 February 1988 is not officially reported but is reprinted in the Petition for Writ of Certiorari at A24. The opinion of the United States District Court entered on 7 June 1988 is reported at 86 BR 691 (DC MD Fla 1988) and is reprinted in the Petition for Writ of Certiorari at A13. The opinion of the United States Court of Appeals for the Eleventh Circuit entered 11 July 1989 is reported at 877 F 2d 44 (11th Cir 1989) and is reprinted in the Petition for Writ of Certiorari at A1.

NOTES EXCERPTED

JURISDICTION

STATUTORY PROVISIONS INVOLVED

The court of appeals rendered its opinion and entered its judgment in favor of Creditor/Respondent, Helen Owen, on the 11th day of July 1989. (A1, A30). The Debtor/Petitioner, Dwight H. Owen, filed a petition for rehearing and suggestion for rehearing in banc on the 28th day of July 1989, pursuant to 11th Cir. Rule 35-2, and same was denied by the court of appeals on the 31st day of August 1989. (A28).

This Court has jurisdiction pursuant to 28 USC 1254(1) and the order granting the Petition for Writ of Certiorari dated the 14th day of May 1990.

Under Rule 1254(b) of the Bankruptcy Rules, the debtor may not elect to exempt property listed in paragraph (1) and the other debts elected to exempt property as set in paragraph (2) in this subsection of the petition for

SECTION 541 OF THIS TITLE TO BE ELECTED

FEDERAL

STATUTORY PROVISIONS INVOLVED

11 U.S.C. § 522(b)

Notwithstanding section 541 of this title, an individual debtor may exempt from property of the estate the property listed in either paragraph (1) or, in the alternative, paragraph (2) of this subsection. In joint cases filed under section 302 of this title and individual cases filed under section 301 or 303 of this title by or against debtors who are husband and wife, and whose estates are ordered to be jointly administered under Rule 1015(b) of the Bankruptcy Rules, one debtor may not elect to exempt property listed in paragraph (1) and the other debtor elect to exempt property listed in paragraph (2) of this subsection. If the parties can

not agree on the alternative to be elected, they shall be deemed to elect paragraph (1), where such election is permitted under the law of the jurisdiction where the case is filed. Such property is --

(1) property that is specified under subsection (d) of this section, unless the state law that is applicable to the debtor under paragraph (2)(A) of this subsection specifically does not so authorize; or, in the alternative,

(2)(A) any property that is exempt under Federal law, other than subsection (d) of this section, or State or local law that is applicable on the date of the filing of the petition at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of the petition, or for a longer portion of such 180-day period than in any other place; and

(B) any interest in property in which

the debtor had, immediately before the commencement of the case, an interest as tenant by the entirety or joint tenant to the extent that such interest as a tenant by the entirety or joint tenant is exempt from process under applicable nonbankruptcy law.

11 U.S.C. § 522(f)

Notwithstanding any waiver of exemptions, the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is --

(1) a judicial lien;

FLORIDA

CONSTITUTIONAL PROVISIONS INVOLVED

Article X, Section 4, Florida Constitution

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the

extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or his family; (2) personal property to the value of one thousand dollars.

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

(c) The homestead shall not be subject to devise if the owner is survived by spouse or minor child, except the homestead may be devised to the owner's spouse if there be no minor child. The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse. If the owner or spouse is incompetent, the method of alienation or encumbrance shall be as provided by law.

Amended, general election, Nov. 7, 1972; general election, Nov. 6, 1984.

Article XI, Section 5, Florida Constitution

(c) If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

37 FLORIDA IN THE CASE

STATUTORY PROVISIONS INVOLVED

Chapter 222.20, Florida Statutes

In accordance with the provision of s. 522(b) of the Bankruptcy Code of 1978 (11 USC s522(b)), residents of this state shall not be entitled to the federal exemptions provided in s. 522(d) of the Bankruptcy Code of 1978 (11 USC s522(d)).

Nothing herein shall affect the exemptions given to residents of this state by the State Constitution and the Florida Statutes.

real property in Sarasota County, FL
will not affect.

On 27 November 1984, debtor commenced

171 filings in the Bankruptcy Court, numbering 31, were made available by the District Clerk and are therefore numbered in order of filing for reference purposes (Exhibit 16, Exhibit 17). The filings initially were in the District Court, the Clerk assigned numerical numbers by document and numbered them 2 through 15. For reference purposes these are noted as (Ex. 2) to (Ex. 15). A complete list appears in the Joint Appendix at (Ex. 1).

AG18034
GEYER/WHITE VACUUM

See simple **STATEMENT OF THE CASE** property

11-1000, Unit No 304, Embassy House, a

Condominium located in Sarasota

The facts of the case are not in dispute. (A2). The Creditor obtained a final money judgment against the Debtor in Manatee County Circuit Court on the 1st day of December 1975. (R. Ex10 p.2)¹ (A2). A certified copy thereof was recorded in Sarasota County, Florida on the 29th day of July 1976 at OR 1127, Page 1494, of the public records of Sarasota County. (R. Ex10 p.2)(A2). At that time, the Debtor did not own any interest in real property in Sarasota County. (R. Ex31 p.3) (A15).

On 27 November 1984, Debtor acquired

1. All filings in the Bankruptcy Court, numbering 31, were noted as Exhibits by the District Court and are therefore numbered in order of filing for reference purposes as (R. Ex1) to (R. Ex31). For filings initially made in the District Court, the Court assigned numerical listings by document and numbered them 2 through 15. For reference purposes those are noted as (R. 2) to (R. 15). A complete list appears in the Joint Appendix at (JA 1).

fee simple ownership of the real property at issue, Unit No 304, Embassy House, a condominium, located in Sarasota County, Florida. (R. Ex10 p.2). The deed to the Debtor was recorded on 27 November 1984 at OR 1732, Page 676 of the Public Records of Sarasota County. (A15). At that time, the Debtor was a single man and not the "head of a family" within the meaning of Article X, Section 4, of the Florida Constitution, the homestead provision. (R. Ex10 p.2) (A3).

On the 6th day of November 1984, an amendment to the homestead provision was adopted by the citizens of Florida which substituted "a natural person" for "a head of a family". Article X, Sec. 4, Fla. Const., (A16). That amendment was effective on the 8th day of January 1985. Article XI, Sec. 5, Fla. Const., (A3).

The Debtor filed his Chapter 7

(R. Ex21). Pursuant to Bankruptcy Rules petition on 13 January 1986 (R. Ex1) and claimed the above real property as exempt on his B-4 schedule in accordance with Art X, Section 4 of the Florida Constitution and Chapter 222.20, Florida Statutes. (R. Ex1 p.12). The Respondent/Creditor objected to this claim of exemption, however the objection was overruled by the Bankruptcy Court in its order of 13 August 1986, which allowed the exemption and held the property to be immune from general administration by the Trustee.

(R. Ex10). The lien avoidance question was not at issue and was specifically not determined by the Court. (R. Ex10 p.3).

Following his discharge, the Debtor moved to reopen the case for the purpose of moving to avoid the Creditor's lien. (R. Ex14). The Court reopened the case to determine the lien avoidance issue.

The Debtor argued that the Creditor's position was, effectively, the "opt-out"

(R. Ex21). Pursuant to Bankruptcy Rules 4003(d) and 9014, the Debtor moved to avoid the lien. (R. Ex20). The Creditor responded, (R. Ex23), and the matter was argued before the court on 21 August 1987. (R. Ex31 Tr.).

At the hearing the Creditor did not contend that the Debtor had no right to the exemption nor that the exemption, if valid, was not impaired by the lien. The Creditor did not dispute that the lien was a judicial lien. (R. Ex31 p.8)

The Creditor contended essentially that 1) since Florida decisional law permitted enforcement, despite the homestead protection, then 11 USC 522(f) was not available, (R. Ex31 p.4), and 2) that 11 USC 522(f), by reference to legislative history, was meant to apply only to liens obtained shortly before bankruptcy. (R. Ex31 p.5,6)

The Debtor argued that the Creditor's position was, effectively, the "opt-out"

position disapproved in In Re Hershey,
50 BR 329 (DC SD Fla 1985) and in In Re
Maddox, 713 F 2d 1526 (11th Cir 1983).
(R. Ex31).

On the 1st day of December 1987, the
bankruptcy court granted Debtor's motion,
(R. Ex25), however, following the Creditor's
timely 7052(b)/9023 motion, (R. Ex26), the
court entered its ex parte order of 8 Feb-
ruary 1988, (R. Ex28)(A24), denying lien
avoidance. At (A26), the court stated,

"Clearly, if at the time the certi-
fied copy of the judgment was recor-
ded in the Public Records, the Deb-
tor owned the property but for what-
ever reason did not qualify to claim
the property as homestead such
judgment lien would be clearly non-
avoidable under 522(f) of the
Bankruptcy Code. As the judgment
lien in this case attached before
the property qualified as homestead,
the judgment lien is not of the
type included within the ambit of
522(f)(1) and may not be avoided."

The only authority cited was In Re Williams,
38 BR 224 (Bankr ND Okla 1984) and In Re
McCormick, 18 BR 911 (Bankr WD Pa 1981)
(R. Ex25 p.2-3).

The Debtor timely appealed pursuant to Rule 8002(a) of the Bankruptcy Rules of Procedure on 16 February 1988. (R. Ex29).

The matter was submitted to the District Court on briefs, (R.#6), (R.#7) and (R.#9). The Debtor argued that 11 USC 522(f) could not be precluded of operation by state law, (R.#6 p.5, 17-26), that the case law relied upon was misapplied and that the entry of the 8 February 1988 order was not authorized by the applicable rules of procedure. (R.#6 p.27-28).

The District Court affirmed the order of the bankruptcy court in its entirety, (A23), and relied upon In Re Williams, above, and In Re McCormick, above. The Court, at (A22), stated,

"A judicial lien which attached to an interest in property prior to the debtor's acquisition of that interest is not avoidable pursuant to 522(f)(1)."

The Debtor's timely appeal followed

on 21 June 1988. (R.#12), Rule 3(a),
Federal Rules of Appellate Procedure.

The United States Court of Appeals
affirmed the District Court but did not
rely on the grounds or authorities cited
below. The Court of Appeals found that,
1) because the lien in question created an
exception to the homestead exemption under
state law there was no impairment of any
exemption and 2) that 11 USC 522(f)(1) was
also unavailable because the debtor never
owned the property free of the lien. (A9,
A11).

A timely Petition for Rehearing and
Suggestion for Rehearing In Banc was denied.
(A28).

The Petition for Writ of Certiorari
was filed citing the significance of the
lien avoidance issue and the divergence
existing among the circuits with respect
to the proper interpretation of the lien

avoidance section when applied to state created exemptions. The Petition was granted on 14 May 1990.

SUMMARY OF ARGUMENT

the code requirements for lien avoidance.

The Court of Appeals erred in concluding that the judicial lien in this case could create an exception to an otherwise available state exemption and thereby render lien avoidance under 11 USC 522(f) unavailable to the Debtor. In reaching this result, the Court of Appeals failed to independently apply the lien avoidance provision to the state exemption provision.

If the decision of the Court of Appeals were to be sustained, state law could, by way of exemption definitions, evade lien avoidance and convert the concept of the "judicial lien as impairment" to "judicial lien as exception". Such a result would be improper under the language of the code because 1) there is no "state option" under 11 USC 522(f) and 2) 11 USC 522(f) could be rendered inoperative and meaningless.

The Debtor contends that he has met the code requirements for lien avoidance. Although denying relief, the courts below have identified little, if any, code language supporting such denial and the decisions are not completely consistent with one another. To sustain affirmance on any basis announced in the decisions below, this Court would be required to amend or supplement the language of the code or, in the case of the Court of Appeals decision, authorize emasculation of 11 USC 522(f) as a lien avoidance remedy.

11 USC 522(f) must be applied independently of state law definitions of exemptions. Failing that, the conflict, within the context of bankruptcy proceedings, which arises between state exemptions and federal lien avoidance would be improperly resolved in favor of state law.

This Court must reverse the Court of

Appeals decision in this case. Granting the Debtor the lien avoidance remedy is the only result which is consistent with code language and with proper balance between state exemptions and federal lien avoidance.

exception for property encumbered by certain judicial liens.

The lien avoidance section creates the following requirements for avoidance of described liens. First, the lien must be a judicial lien or none. The debtor must have an interest in the property on which the lien is attached and, third, the lien must be in an amount which the debtor may exercise by settling with the debtor in the amount of the debt (See, 50 U.S. 3d 1402, 5 Minn. 1985) and in the amount of the debt (20 Ill. 1986).

It is not disputed that the Plaintiff's debt is such a debt. The only question

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ARGUMENT

a judicial lien will be obtained by
judgment, levy, and sale or other
~~+~~

A. The Debtor meets the requirements of
11 USC 522(f)(1) even though Florida law
creates an exception to the homestead
exemption for property encumbered by cer-
tain judicial liens.

The lien avoidance section creates
the following requirements for avoidance
of described liens. First, the lien must
be a judicial lien; second, the debtor
must have an interest in the property to
which the lien is attached and, third,
the lien must impair an exemption to which
the debtor would otherwise be entitled.

See In Re Hahn, 60 BR 69 (Bankr D Minn
1985) and In Re Allman, 58 BR 790 (Bankr
CD Ill 1986).

It is not disputed that the lien in
this case is such a lien. The Code defines

a judicial lien as a "lien obtained by judgment, levy, sequestration or other legal or equitable process or proceeding." 11 USC 101(32). Under Florida law, a judgment becomes a lien upon real property when a certified copy of the judgment is recorded in the official records or judgment lien record of the county in which the property is located. Chapter 55.10, Fla. Stat., In Re Belize Airways, Ltd., 19 BR 840 (Bankr SD Fla 1982). A judgment against the debtor does not attach as a lien upon real property until real property is owned by the judgment debtor, Cheves v First National Bank of Gainesville, 83 So 870 (Fla 1919), however, a previously recorded judgment against the debtor attaches as a lien upon real property immediately upon acquisition of title by the judgment debtor. Porter-Mallard Co., et al., v Dugger, 157 So 429 (Fla 1934).

Consequently, the Creditor's judgment, duly recorded on 29 July 1976 in Sarasota County, attached as a lien upon the Debtor's real property at the time he acquired title on 27 November 1984. As a result, the Creditor's judgment constitutes a judicial lien within the meaning of 11 USC 522(f)(1).

The second requirement is also met because the Debtor acquired his interest in the property on 27 November 1984. As we have seen, acquisition of title was required in order for his creditor to have a lien. But for this acquisition, his creditor would have no lien. This same interest was claimed and allowed as exempt in the bankruptcy proceedings. (R. Ex10).

The third requirement, impairment of an otherwise available exemption, is also met because, 1) property of the type owned by the Debtor may be exempted as homestead, and 2) under Florida decisional law, see

Aetna Insurance Co. v LaGasse, 223 So 2d 727 (Fla 1967), Bessemer v Gersten, 381 So 2d 1344 (Fla 1980), a judgment attaching as a lien to property at a time when the Debtor is not eligible to claim the exemption will prevail over an after acquired right of homestead. Inasmuch as the exemptions which a debtor may assert, in bankruptcy, are those which are applicable on the date of the filing of the petition, see 11 USC 522(b)(2)(a), In Re Zahn, 605 F 2d 323 (7th Cir 1979) cert den 444 US 1075 (1980) the Debtor was entitled to assert the homestead exemption in this case. However, because state law allows a lien which attaches prior to acquisition of the homestead to remain enforceable against it, impairment exists.

The statutory language and legislative history supports avoidance in this case. First, the use, in 11 USC 522(f), of the

phrase, "...would have been entitled under sub-section (b)..." supports the contention that (f) was meant to apply in situations where enjoyment or assertion of an exemption was prevented by an encumbrance of the type described in (f)(1) and (f)(2). Secondly, the legislative history of the section accords with this argument wherein it is stated:

"Subsection (f) protects the debtor's exemption, his discharge and thus his fresh start by permitting him to avoid certain liens on exempt property. The debtor may avoid a judicial lien on any property to the extent that the property could have been exempted in the absence of the lien... The avoidance power is independent of any waiver of exemptions"

H. Rep. No. 95-595, 95th Cong. 1st Sess. (1977) 362; S. Rep. No. 95-989, 95th Cong. (1978) 76 (under subsection e); U.S. Code Cong & Admin News 1978, pp. 5787, 6318.

B. The Courts below have, in each decision imposed additional requirements for lien avoidance which Congress did not see fit to require.

It was contended by the Creditor in her initial brief before the District Court (R.#7 p.7) that the lien must attach "shortly before" bankruptcy to be avoidable. No such requirement is found in the language of the code. In In Re Latulippe, 13 BR 528 (Bankr Vt 1981), the court noted in response to such argument, at p. 529, that

"... (creditor) further contends that the avoidance of a judgment lien should be restricted to one obtained within the preference period, i.e. 90 days before the filing. There is no basis for this argument. The statute is clear and it contains no time limitation."

Similarly, in In Re Lumpkins, 12 BR 44 (Bankr RI 1981) the Court rejected a

similar contention, stating, at p. 45,

"(creditor), however, offers no authority to support its contention that the §522 time parameters should be equated with those of §547."

Both the Bankruptcy court and the District Court placed substantial reliance upon In Re McCormick, 18 BR 911 (Bankr WD Pa 1982) affirmed 22 BR 997 (DC WD Pa 1982). At p. 914 of that opinion is the following language,

"A judicial lien which attached to an interest in property prior to the debtor's acquisition of that interest is not avoidable pursuant to §522(f)(1)."

The above language was employed in both of the lower court opinions. (R. Ex25 p.3) and (A22). No basis within the Code is cited for this conclusion and there is none. In any event, that rule has no application in Owen

It appears that in McCormick, above, and in In Re Williams, 38 BR 224 (Bankr

ND Okla 1984), its companion case (which involved a consensual lien), each debtor acquired an enlarged or varied estate in the property. No such circumstance is present in Owen because Debtor held one and only one interest or estate in the property, i.e. sole ownership of the fee as of the date of the attachment of the lien, 27 November 1984. The after-acquired right of homestead did not alter or enlarge his interest or estate in the property. See Johns v Bowden, 66 So 155 (Fla 1914). Irrespective of the validity of the McCormick/Williams rule, it does not lend itself to the facts in Owen as there was, in Owen, no "pre-existing interest". Beyond that, the McCormick/Williams rule is without foundation in the language of the Code. See In Re Chandler, 77 BR 513, 519 (Bankr ED Pa 1987). Rather, the McCormick rule derives from what that opinion itself

categorizes as an "implicit assumption",
18 BR p. 913.

The Bankruptcy Court and District Court failed to recognize these factors and their reliance was misplaced.

C. State law which defines otherwise exempt property to be an "exception" to the exemption if encumbered by a judicial lien may not be given effect where to do so would defeat or evade the operation of 11 USC 522(f)(1)

Whereas the lower courts interpreted 11 USC 522(f) to contain certain additional requirements for lien avoidance not to be found in its plain language, the Court of Appeals adopted a slightly different basis for denying lien avoidance. Contrary to prior 11th Circuit precedent set forth in In Re Hall, 752 F 2d 582 (11th Cir 1985), the court effectively authorized states to "opt out" of lien avoidance by the creation of exceptions to exemptions for lien encumbered property. This result should not be sustained because, quite obviously, where the "excepting" character-

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istic is one of the characteristics des-
cribed in f(1) or f(2), the concept of
impairment disappears and the lien avoid-
ance provision becomes meaningless and
inoperative.

The principal set forth in Hall,
above, and the recent cases of In Re Snow,
899 F 2d 337 (4th Cir 1990) and In Re Leo-
nard, 866 F 2d 335 (10th Cir 1989), is
that the lien avoidance provision must be
independently applied. In Hall, above, the
court, in reviewing a Georgia statute which
permitted a debtor to exempt property only
if it was not encumbered by a lien, stated:

"This section 522(f) operates to
permit a debtor to avoid the fix-
ing of a lien on property if that
avoidance would allow the debtor
to enjoy the exemption. The very
purpose of the statute is to per-
mit debtors to claim, or exempt,
property completely or partially
secured by an otherwise valid lien.
To permit states to inhibit the
operation of the lien avoidance
provision by simply defining all

lien encumbered property as 'not exempt' would render the statute useless, a result inconsistent with well established principal of statutory construction requiring that all parts of an act be given effect if at all possible."

Snow, above, at p. 339, characterizes Hall as "... a direct holding that §522(f) allows a debtor to avoid a lien if such avoidance will allow a debtor to exempt property that state law would treat as non-exempt because of a lien." Had such a principal been applied in Owen, the Debtor would have clearly succeeded in avoiding the lien.

§522(f) is not an additional exemption provision, rather it is a process or mechanism to be applied to categories of exemptions. It is a federal remedy which, unlike §522(b), contains no "state option". Congress could have, but did not, grant to states powers or options under §522(f). The most logical conclusion to be reached regarding these two sections of the code is that because

they serve different purposes and perform different functions they must be applied independently.

§522(f) was designed to further debtor's fresh start by removing obstacles which the bankruptcy discharge itself did not remove, i.e. liens and encumbrances arising commonly and primarily under state law. It is not reasonable to conclude that Congress provided lien avoidance remedies which affected, primarily, encumbrances arising by virtue of state law and, at the same time, 'impliedly' relinquished to the states the power to evade that federal remedy through the means of exemption "exceptions". The decision of the Court of Appeals in Owen authorizes just such an outcome.

Given the nature of Federal Bankruptcy power and the peculiarly federal remedy provided by §522(f), any conflict produced

or arising by the application of state law must be resolved in favor of the application of federal law. See In Re Pelter, 64 BR 492 (Bankr WD Okla 1986), In Re Storer, 13 BR 1 (Bankr SD Ohio 1980) and Jones v Rath Packing Co., 430 US 519. (1977). Application of the foregoing principal does not have the effect of invalidating any state exemption law but merely requires that, within the limited context of bankruptcy proceedings, state law is suspended of operation to the extent that such conflict arises.

Rather than observe the foregoing principal, the Court of Appeals in Owen effectively renders §522(f) "subject to" state law and judicial lien as impairment becomes judicial lien as exception. Thus, state, rather than federal, law prevails. Such a result is nowhere supported by the language of the code and produces an un-

reasonable infringement of federal bankruptcy power.

The decision of the Court of Appeals can not be sustained upon any of the grounds cited by that court or the courts below because none of the reasons cited for non-avoidance finds firm footing in the code.

That decision should not be affirmed as it authorizes effective nullification of a significant federal bankruptcy provision without the slightest of evidence that Congress authorized such a result.

A reversal would produce a result completely consistent with the language of the statute, would assure the operation of all provisions of the code, create less disruption of the state/federal balance fixed by Congress.